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SUMMARY

At this point in time when incumbent LECs are entering or are seeking to enter interLATA toll markets and competitors are entering or are seeking to enter the intraLATA toll and local exchange markets dominated by incumbent LECs, it is critical that the Commission take action to safeguard against and eliminate incumbent LEC gaming of the PC-selection process. In Section 258, Congress not only expressed a clear intent to prevent slamming in all telecommunications markets — local and intraLATA and interLATA toll — but it also sought to ensure that consumers would be able to receive service from the carriers they choose and when they choose them. Because incumbent LECs have both (1) the unavoidable role of executing carrier and (2) an incumbent's advantage and residual control over bottleneck facilities, CompTel believes that the Commission ought to focus its attention on creating rules that ensure that incumbent LECs are not able to game the PC-selection process anticompetitively.

To accomplish this goal, CompTel recommends that the Commission adopt the following safeguards:

- incumbent LECs must give PC-change information CPNI protection;
- incumbent LECs are subject to an unqualified nondiscrimination standard for PC-change execution;
- incumbent LECs must submit quarterly reports showing PC-change performance intervals and error ratios; and
- incumbent LECs serving the dual role of submitting and executing carrier must (1) obtain third party verification and (2) serve verification materials on the Commission or any requesting carrier setting forth reasonable cause for suspecting an improperly authorized PC-change.

CompTel also requests that the Commission explore the viability of requiring the use of a neutral third party administrator for the entire PC-selection process.

Further, CompTel believes that the Commission must act to eliminate incumbent LECs' anticompetitive use of PC-freezes. Specifically, CompTel recommends that the Commission prohibit incumbent LECs from soliciting or enforcing PC-freezes for local and intraLATA services until six months after they become subject to competition. CompTel advocates the adoption of rules that prohibit incumbent LECs from (1) engaging in discriminatory or otherwise anticompetitive PC-freeze practices, and (2) using deceptive or misleading PC-freeze solicitations. Moreover, CompTel proposes (1) that incumbent LECs be required to furnish electronic access to regularly updated database information on the names and telephone numbers of all consumers who have effected a PC-freeze, and (2) that the Commission adopt standardized procedures for removing a PC-freeze.

CompTel also recommends that the Commission's PC-change verification procedures be made applicable to consumer-initiated "in-bound" calls to incumbent LECs. However, because consumers typically dial IXC telemarketing numbers with the intent to initiate a PC-change, CompTel believes that exempting these calls from the PC-change verification requirements is warranted. Such an exemption would have little or no effect on the occurrence of slamming as a result of those calls.

With regard to a slammed customer's liability for services rendered, CompTel recommends that the Commission adopt rules that require payment to the authorized carrier at authorized rates. Such rules are necessary (1) to prevent formation of a cottage industry based on fraudulent or delayed claims of slamming that would result if slammed customers automatically were absolved of liability for service charges, and (2) to assure the authorized carrier of reasonably expected revenues.

With regard to the restoration of premiums, CompTel believes that the Commission should refrain from prescribing an unwieldy regulatory regime to restore those benefits. Rather, the Commission should recognize that authorized carriers have every incentive to make customers whole by restoring services and premiums offered to customers.

Finally, to discourage gaming of the PC-selection process, CompTel recommends that the Commission adopt liability provisions applicable when incumbent LECs fail to execute properly verified PC-change requests.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	
Selection Changes Provisions of the)	
Telecommunications Act of 1996)	CC Docket No. 94-129
)	
Policies and Rules Concerning)	
Unauthorized Changes of Consumers')	
Long Distance Carriers)	

**COMMENTS OF THE
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION**

The Competitive Telecommunications Association ("CompTel"), by its attorneys, respectfully submits these comments on the Commission's *Further Notice of Proposed Rule Making* ("FNPRM") in the above-captioned docket.¹ Because incumbent LECs' control over bottleneck facilities and access to customer preferred carrier ("PC") selections creates undeniable opportunities for them to act in anticompetitive and discriminatory ways, CompTel urges the Commission to focus its attention on eliminating and preventing incumbent LEC gaming of the PC-selection process. At this point in time when incumbent LECs are seeking to enter interLATA toll markets and competitors are seeking to enter the intraLATA toll and local exchange markets now dominated by incumbent LECs, appropriate Commission action with regard to the PC-selection process is critical to ensuring that

¹ *Further Notice of Proposed Rule Making and Memorandum Opinion and Order on Reconsideration*, FCC 97-248 (rel. July 15, 1997).

competition develops as Congress intended and that consumers reap all of the associated benefits.

I. The Commission Must Eliminate and Safeguard Against Incumbent LEC Gaming of the PC-Selection Process

Section 258 explicitly prohibits slamming by any telecommunications carrier. 47

U.S.C. § 258(a). Accordingly, CompTel believes that the Commission's proposal to expand the applicability of its slamming rules from IXC's to all telecommunications carriers not only is consistent with the framers' intent but indeed is mandated by the Act. Moreover, CompTel concurs in the Commission's conclusion that "LECs are also subject to Section 258(a) of the Act if they '*submit or execute*' a change in a subscriber's selection of a preferred carrier." *FNPRM* ¶ 12. As a foundation for the Commission's Section 258 mandate to protect against illegal changes in subscriber carrier selections (a practice commonly referred to as "slamming"), CompTel believes that the Commission's proposed definitions of "submitting carrier" and "executing carrier" properly are crafted to hold accountable all carriers involved in PC-change transactions. *Id.* ¶ 13.

In Section 258, Congress expressed a clear intent to preventing slamming in all telecommunications markets — local and intraLATA and interLATA toll. Pursuant to this mandate, the Commission is charged with establishing rules to ensure that consumers are able to get service from the carriers they choose, when they choose them — and not otherwise. Because incumbent LECs have the unavoidable role of executing carrier, CompTel suggests that the Commission's attention most appropriately should be focused there.

As the Commission recognizes, incumbency gives incumbent LECs an inherent advantage over carriers seeking to enter local exchange markets. *See id.* ¶ 15. Moreover, incumbent LECs' control over bottleneck facilities and access to PC-selection information necessitated by the incumbent LECs' unavoidable role as executing carrier creates virtually irresistible opportunities for incumbent LECs to engage in anticompetitive activities. Because IXC and CLEC are not similarly situated, the Commission should have no difficulty in justifying the adoption of two strata of PC-selection requirements, with those applicable to incumbent LECs being more stringent than those that apply to incumbent LEC competitors. Accordingly, CompTel believes that incumbent LECs should be subject to the PC-selection safeguards and verification standards specified below.

Significantly, CompTel also agrees with the Commission's assessment that Section 258 does not require that an executing carrier duplicate the PC-change verification efforts of the submitting carrier. *Id.* ¶ 14. Commission clarification to this effect is particularly important as incumbent LECs otherwise might be tempted to engage in anticompetitive delay and frustration tactics under the guise that they are responsible for verifying PC-change requests of carriers other than themselves or their affiliates.² In short, because incumbent LECs are in a unique position whereby they can manipulate the PC-change process

² The Commission previously has shown its reluctance to allow LECs to take on an enforcement role with respect to their competitors. In its *Interconnection Order*, the Commission rebuffed LEC attempts to interpret and enforce state certification requirements when it determined that a LEC may not condition negotiation on a requesting carrier's first obtaining state certification. *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *First Report and Order* (rel. Aug. 8, 1996) (referred to herein as "*Interconnection Order*").

anticompetitively, the Commission must not allow them to assume the role of "policeman" with respect to the PC-change verification obligations of competing carriers.³

Similarly, CompTel believes that the Commission ought to pay particular attention to circumstances where an incumbent LEC or its affiliate is the submitting carrier. *See FNPRM* ¶ 14. Because such a case necessitates that the incumbent LEC (or the incumbent LEC in combination with its affiliate) carry out the roles of *both* the submitting and executing carrier in the PC-selection process, detection of illegal PC-changes will be exceedingly difficult. Thus, CompTel submits that the Commission would be justified in adopting additional safeguards governing PC-changes that involve an incumbent LEC (or an incumbent LEC and its affiliate) serving the dual role of submitting and executing carrier.

II. Incumbent LECs Should Be Subject to Safeguards and More Stringent Verification Standards

A. Safeguards Will Protect Against Incumbent LEC Gaming of the PC-Selection Process

As discussed above, CompTel believes that incumbent LECs should be subject to more stringent PC-change requirements and prohibitions because their incumbency and residual bottleneck control creates irresistible opportunities for them to engage in

³ However, CompTel submits that the Commission should require incumbent LECs to give subscribers accurate information with regard to PC-changes. To ensure that subscribers receive accurate information, the Commission should require incumbent LECs to check the service provider information present in their own databases before identifying carriers. Such a requirement would do much to alleviate problems created by incumbent LECs' use of carrier identification codes ("CICs") that identify the underlying facilities-based IXC network but do not reveal the service provider who may be responsible for slamming. Similarly, the requirement also will alleviate customer confusion created in cases where an incumbent misidentifies the service provider to the end-user subscriber, thus creating an implication of slamming where none in fact has occurred (*i.e.*, "false slamming").

anticompetitive activity. As the Commission aptly recognized in the *FNPRM*, incumbent LECs seeking to avoid the loss of local customers could delay or refuse to process local PC-change requests from competitors.⁴ One need only look to the record already established herein for examples demonstrating that this possibility is in many cases a reality.⁵ Additionally, incumbent LECs' control over bottleneck facilities and information with regard to toll PC-selection also creates the potential for them to engage in anticompetitive conduct with respect to toll PC-changes as they enter the toll market.⁶ Given these incentives, CompTel urges the Commission to adopt safeguards designed to ensure that incumbent LECs are not able to game the PC-selection process anticompetitively.

Specifically, CompTel proposes the adoption of safeguard provisions designed to eliminate and prevent incumbent LEC manipulation of the PC-selection process. First, the Commission should ensure that incumbent LECs give PC-change information customer proprietary network information ("CPNI") protection. Thus, information relevant to

⁴ *FNPRM* ¶ 15. In Section VI, below, CompTel proposes liability provisions governing this situation.

⁵ See, e.g., *MCI Petition for Rule Making*, CCB/CPD 97-19, RM-9085 (filed Mar. 18, 1997) at n.2 (SNET and Ameritech have relied on anticompetitive tactics, including PC-freezes, to reject between 10% and 20% of all PC-change requests submitted by MCI) ("*MCI Petition*").

⁶ See, e.g., *FNPRM* ¶ 23 ("to the extent that an IXC soliciting a PIC freeze is also the subscriber's LEC, the practice could be designed to, or have the effect of, giving the IXC/LEC an unfair advantage in the toll service and local exchange markets"); see also *MCI Petition* at 5 (discussing the Michigan Public Service Commission's recent finding that Ameritech deceptively promoted PC-freezes and impeded the implementation of intraLATA equal access by creating "new hurdles to the exercise of the customer's decision to change providers just as alternatives were becoming available." (quoting *In the Matter of the Complaint of Sprint Communications Company, L.P. against Ameritech Michigan*, Michigan PSC Case No. U-11038, Aug. 1, 1996)).

PC-changes should be distributed and available only to incumbent LEC personnel tasked with executing actual PC-change requests. In no case, should an incumbent LEC's marketing or sales personnel be permitted access to PC-change information. Much of the incumbent LECs' anticompetitive "win-back" activity is based on the unique ability of incumbent LEC marketing and sales personnel to access PC-change information. By adopting a safeguard provision that mandates CPNI protection for PC-change information, the Commission will go a long way toward curbing anticompetitive incumbent LEC "win-back" activities.

Second, the Commission should adopt an unqualified nondiscrimination standard for PC-change execution. Such a standard would require parity between incumbent LECs (and their affiliates) and competitors in PC-change intervals and error ratios. This nondiscrimination safeguard should be enforceable via an expedited complaint process.

Third, to ensure compliance with the nondiscrimination standard, incumbent LECs should be required to submit quarterly reports showing PC-change performance intervals and error ratios. These reports should be presented in a manner that makes comparison between an incumbent LEC's performance for itself and its affiliates and the incumbent LEC's performance for competitors readily accessible.⁷

Fourth, incumbent LECs serving the dual role of submitting and executing carrier should be required (1) to obtain third party verification and (2) to provide appropriate verification materials to the Commission or any carrier upon request. Such a request need

⁷ The Commission recently imposed this kind of reporting requirement on Bell Atlantic with respect to its pre-ordering, ordering, provisioning, maintenance, network and billing performance. *Applications of NYNEX and Bell Atlantic for Consent to Transfer Control*, File No. NSD-L-96-10, *Memorandum Opinion and Order* (rel. Aug. 14, 1997) ¶¶ 182, 193-94, 208-12, and Appendices C and D.

not be made in the context of a Commission proceeding. Rather, dual role carriers should bear a good faith obligation to cooperate with carriers seeking proof of verification. Similarly, carriers requesting verification should be subject to a good faith obligation with regard to setting forth the reasonable cause associated with each request.

Finally, CompTel also suggests that the Commission explore the viability of requiring the use of a neutral third party administrator for the PC-selection process.⁸ However, because incumbent LECs ultimately will be responsible for administering most PC-changes, and in many cases will perform the functions of both the submitting and executing carrier, there remains a significant need for the Commission to adopt stringent verification rules.

B. Incumbent LEC PC-Freeze Practices Should Be Restricted and Subject to Safeguards Designed to Protect Informed Consumer Choice

On June 4, 1997 CompTel filed comments in support of MCI's Petition for Rule Making requesting that the Commission adopt rules governing the solicitation of PC-freezes or other restrictions on a consumer's ability to effect a PC-change. *MCI Petition for Rulemaking*, CCB/CPD 97-19, RM-9085 (filed Mar. 18, 1997). MCI's Petition and all responsive pleadings have been incorporated into the instant proceeding. *FNPRM* ¶ 21. Accordingly, CompTel respectfully refers the Commission to its comments originally filed in RM-9085 and adds the following discussion to the points made therein.

MCI's Petition aptly demonstrated, through its discussion of how Ameritech and SNET abuse the PC-freeze process, that incumbent LECs are using PC-freezes as a tool to

⁸ It may be possible for this to be accomplished in association with the neutral third party administration of a permanent number portability database.

shield themselves from competition in the local and intraLATA toll markets they already dominate and to secure competitive advantage with respect to the interLATA toll markets they either are entering or are seeking to enter. *MCI Petition* at 5-8. In fact, the incumbent LECs' strategic use of PC-freeze practices belies any claim that they are using PC-freezes to protect consumers from slamming. Indeed, in markets where customers do not have alternative choices, slamming is an impossibility and no PC-freezes or carrier change restrictions are necessary to "protect" consumers. The only conceivable purpose for PC-freezes in those markets is for the incumbent LECs to anticompetitively lock-in (or "vault") customers in advance of the introduction of competition. Thus, CompTel reiterates its view that the protection consumers need in such cases is not from slamming, but from incumbent LEC actions to limit the customer's ability to take advantage of new competitive choices. *CompTel Comments*, RM-9085, at 6.

Accordingly, CompTel believes that the Commission, pursuant to Section 201, should prohibit incumbent LECs from soliciting or enforcing PC-freezes for local and intraLATA services until six months after they become subject to competition. For a Bell company, the PC-freeze moratorium should last until six months after the Bell company receives authority from the Commission pursuant to Section 271 to provide in-region interLATA services in a state. For an independent incumbent LEC, the PC-freeze moratorium should last until six months after the incumbent LEC makes an evidentiary showing that sufficient competition exists in the local and intraLATA services market so that the risks of abusive PC-freeze activities are minimized. In the alternative, if an independent incumbent LEC does not wish to make such a showing, the PC-freeze moratorium should last until six months after a Bell company has received section 271 authority to provide in-region interLATA services in the

same state. CompTel submits that this six month moratorium on PC-freezes strikes an appropriate balance between the competing benefits of (1) removing barriers to competition and (2) protection from slamming that is most favorable to consumers.

Because CompTel does not advocate a permanent ban on PC-freeze practices, it underscores its previously expressed view that the Commission should establish rules to ensure that the PC-freeze process in particular and the PC-selection process in general are administered in a competitively neutral manner that is capable of promoting competition while protecting informed consumers' choices. *Id.* at 6-7. Toward this end, CompTel supports MCI's view that the Commission should:

- (1) prohibit incumbent LECs from engaging in PC-freeze practices that are discriminatory or are otherwise designed to impede competition or infringe upon consumer choice;
- (2) prohibit deceptive or misleading PC-freeze solicitations;
- (3) require incumbent LECs to furnish, upon reasonable request, electronic access to database information (updated daily) on the names and telephone numbers of all consumers who have effected a PC-freeze (local, intraLATA or interLATA); and
- (4) require standardized and reasonable procedures for removing an existing PC-freeze including (a) three-way conference calling between the consumer, the incumbent carrier and the new carrier, (b) receipt and efficient processing of oral and written requests to remove PC-freezes, and (c) third party verification of a consumer's request to switch carriers in lieu of either (a) or (b).

See MCI Petition at 8-9.

C. In-Bound Calls to Incumbent LEC Competitors Should Be Exempted from the Commission's Verification Rules

CompTel believes that the Commission's PC-change verification procedures should apply to consumer-initiated "in-bound" calls to incumbent LECs but that "in-bound" calls to competitors should be exempted from the PC-change verification requirements. This position is based on the fact that consumers have a variety of reasons (other than PC-changes), including repair requests and service and billing inquiries, to contact their incumbent LEC — any one of which could be used to as a pretext for an unauthorized PC-change in favor of the incumbent LEC or its affiliates. Thus, subjecting an incumbent LEC's in-bound calls to PC-change verification requirements could protect unprepared consumers from being slammed while protecting local and toll competition.

Consumers are not similarly captured by IXC's and other competitors. Rather, consumers typically dial IXC telemarketing numbers with a single purpose in mind: to consider making a PC-change. There is little or no danger that IXC's could use inbound calls unrelated to PC-changes as a pretext for slamming. Because consumers typically dial IXC telemarketing numbers with the intent to initiate a PC-change, CompTel believes that exempting these calls from the PC-change verification requirements would have little or no impact on the occurrence of slamming as a result of these calls. Simply put, there is no need to subject consumers that make affirmative and proactive attempts to initiate PC-changes to cumbersome and time-consuming verification procedures.

III. Slammed Customers Should Pay the Authorized Carrier at Authorized Rates

With regard to a slammed subscriber's liability for services rendered, CompTel urges the Commission to adopt rules that effectively would result in the subscriber paying the authorized carrier based on that carrier's rates. *See FNPRM* ¶¶ 25-27. CompTel believes that such rules are necessary (1) to prevent formation of a cottage industry based on fraudulent or delayed claims of slamming that would result if slammed customers automatically were absolved of liability for services rendered,⁹ and (2) to assure the authorized carrier of reasonably expected revenues.¹⁰

Accordingly, CompTel proposes that once a subscriber has detected a slamming incident, it is incumbent upon the authorized carrier to reissue the unauthorized carrier's bill based on the authorized carrier's service and per-minute rates normally applicable to that subscriber. To facilitate this process, unauthorized carriers should be required to forward all billing information to the authorized carrier immediately upon notification of slamming by either the subscriber or the authorized carrier. Subscribers also may submit copies of any bills issued by unauthorized carriers directly to the authorized carrier. Although a certain period of time inevitably will have elapsed, the subscriber then would be liable to its

⁹ For this reason and the fact that nothing in Section 258 indicates that Congress intended for consumers to get free service, CompTel urges the Commission to reject NAAG's proposal to absolve subscribers of all liability for charges assessed after being slammed. *See FNPRM* ¶¶ 26-27.

¹⁰ Slamming negatively affects subscribers and authorized carriers alike. NAAG's proposal to compensate subscribers would come at the expense of authorized carriers' reasonable business expectations. Authorized carriers have a right to expected revenues and, regardless of whether service actually was provided by the authorized carrier, rely on such revenues to cover fixed costs associated with making service available to the subscriber.

authorized carrier as though the slamming incident had never occurred and the authorized carrier's provision of service was never illegally usurped.¹¹

In cases where detection of a slamming incident post-dates a subscriber's payment to an unauthorized carrier, upon detection by the unauthorized carrier or notification by the subscriber or authorized carrier, the unauthorized carrier should be compelled to forward any remittance and associated billing information to the authorized carrier.¹² The authorized carrier then would be required to reissue the bill based on its own rates and provide documentation and any appropriate credits to the subscriber. *See FNPRM ¶ 29.*

IV. Commission Micromanagement With Respect to the Restoration of Premiums is Unnecessary

CompTel submits that the proposals presented in the previous section represent both the most efficient and most administratively feasible way in which to correct the wrongs done to subscribers and authorized carriers by slamming. While CompTel shares the Commission's desire that slammed subscribers should be made as fully whole as possible, CompTel nevertheless submits that the Commission's proposal to restore lost premiums and similar benefits to subscribers, however well intentioned, is simply administratively infeasible. *See FNPRM ¶¶ 29-30.* Given the number, complexity and variety of subscriber benefit plans in the industry today, there is no practicable way for the industry to accurately

¹¹ Experience indicates that in many cases, the authorized carrier likely will forgive such charges. However, CompTel emphasizes that it is exclusively the province of the authorized carrier to decide whether or not to forgive such charges.

¹² Section 258(b) explicitly makes an unauthorized carrier liable to the properly authorized carrier for all charges it collects from the subscriber for services rendered.

calculate and reimburse the value of potential lost benefits for subscribers who have been slammed. Rather than seek to prescribe an unwieldy regulatory regime to restore those benefits, the Commission should recognize that authorized carriers have every incentive to make customers whole by restoring services and premiums offered to customers in order to maintain the customer's goodwill and continued business. CompTel suggests that the Commission ought to let carriers retain this sort of flexibility while refraining from attempting to micromanage this process through regulation.

V. The Commission Should Incorporate a "No Harm, No Foul" Principle Into Its "But For" Test for Determining Carrier Liability With Respect to Slamming

CompTel wishes to take issue with one aspect of the Commission's tentative conclusion to apply the "but for" test to determine carrier liability with respect to slamming.¹³ Specifically, CompTel believes that no harm is done — and no remedy is necessary — in cases where the submitting carrier submits a PC-change request that fails to comply with the Commission's verification requirements and the executing carrier fails to perform the change. Thus, CompTel suggests that the Commission strike the third part of its explanation in paragraph 34 of the *FNPRM* on how the "but for" test would operate.

¹³ *FNPRM* ¶ 34. The Commission reached this tentative conclusion based on its need to distinguish between and establish the actual liability of either or both the submitting or executing carrier with respect to slamming. *Id.* ¶ 32 ("the verification duties and obligations of the submitting and executing carriers should be delineated in order to avoid or minimize disputes over the source or cause of unauthorized PC changes, or over the liability for such PC changes").

VI. The Commission Should Adopt Liability Provisions Applicable When Incumbent LECs Fail to Process PC-Change Requests

As discussed above in Section II, CompTel believes that incumbent LECs' incumbency and residual bottleneck control creates irresistible opportunities for them to engage in anticompetitive activity. This most clearly is manifested in disparate order rejection rates and associated failures to process PC-change requests. *See, e.g., MCI Petition* at n.2. It also is evidenced by the efforts of incumbent LECs to shield themselves from local and intraLATA toll competition and to gain unfair competitive advantage in the interLATA toll markets through the use of PC-freezes. *Id.* at 5-8. To discourage such gaming of the PC-selection process, CompTel recommends that the Commission adopt liability provisions for incumbent LEC failures to properly process and execute PC-change requests.

Specifically, CompTel proposes that the Commission adopt a rule that would make an executing carrier liable to the submitting carrier for failure to properly process and execute a PC-change request. The executing carrier's liability should be in an amount equal to the revenues earned for local or intraLATA toll services during the period spanning from submission of the PC-change request until the request is executed properly. As stated above, CompTel suggests that the Commission adopt an expedited complaint process for the prompt review and resolution of all complaints related to PC-selection.

VII. Notification of a Change in Underlying Providers Is Unrelated to Slamming and, At Best, Should Be Addressed On A Case-By-Case Basis

CompTel fails to see the Commission's claimed nexus between the December 11, 1995 Petition of the Telecommunications Resellers Association ("*TRA Petition*") seeking clarification of the circumstances under which resale carriers must notify their subscribers of a change in their underlying network provider and the Commission's PC-change verification rules and orders. Because this issue is frequently addressed in service contracts, traditional contractual dispute resolution mechanisms also may be more appropriate. In fact, the circumstances addressed by the *TRA Petition* appear to be addressed more appropriately by the Federal Trade Commission in the context of false or misleading advertising claims. However, if the Commission concludes that it will continue to consider whether the failure to notify customers of a change in underlying carrier rises to the level of being an unreasonable practice under Section 201, CompTel suggests that it should continue to do so on a case-by-case basis in adjudicatory proceedings, rather than in the context of a rule making on PC-change practices.

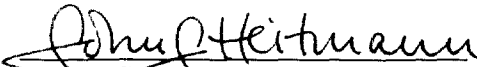
VIII. Conclusion

For all the foregoing reasons, CompTel urges the Commission to protect informed consumer choice and remove impediments to local and toll competition by adopting the

proposals contained herein for eliminating and preventing incumbent LEC gaming of the
PC-selection process.

Respectfully submitted,

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September 15, 1997